

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/027,015
Applicant : Rama Akella
Filed : December 21, 2001
TC/A.U. :
Examiner :
Docket No. : 2026-00400
Customer No.:

Confirmation No.

RECEIVED

JUN 02 2004

OFFICE OF PETITIONS

For: Compositions and Method for Promoting Myocardial and Peripheral Angiogenesis

**REQUEST FOR RECONSIDERATION
OF DECISION DISMISSING PETITION**

Atty Docket No. SBI-094

Date: May 25, 2004

Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Decision on Petition mailed in the above-captioned case on March 25, 2004, Applicants submit herewith a complete reply to the Notice to File Missing Parts that was mailed on February 14, 2002 and hereby request that the Decision be reconsidered and that the Petition be granted. Specifically, the present Request includes:

- A copy of the Declaration that was filed in response to the Notice of Missing Parts,
- A set of Substitute Drawings,
- A computer readable Sequence Listing,
- A statement that the computer readable Sequence Listing is identical to the original sequence listing and contains no new matter, and
- A Preliminary Amendment amending the specification to reflect the afore-mentioned changes made with respect to drawings and the sequence listing.

Applicants believe that the document submitted herewith bring the application into conformity with the Rules and place it in condition for examination. Applicants therefore request that the Decision on the previously filed Petition be reconsidered and that the Petition be granted.

Respectfully submitted,

Marcella D. Watkins

Reg. No. 36,962

CONLEY ROSE, P.C.

P. O. Box 3267

Houston, Texas 77253-3267

(713) 238-8000

ATTORNEY FOR APPLICANT

STIP E JCE
MAY 27 2004
PATENT & TRADEMARK

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DIAC

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number
Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/27,015
	Filing Date	December 21, 2001
	First Named Inventor	Rama Akella
	Art Unit	*
	Examiner Name	*
Total Number of Pages in This Submission	Attorney Docket Number	2026-00400

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JUN 02 2004


OFFICE OF PETITIONS

ENCLOSURES (check all that apply)

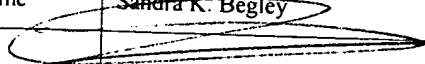
- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Fee Transmittal Form
<input type="checkbox"/> Fee Attached
<input checked="" type="checkbox"/> Amendment/Reply
<input type="checkbox"/> After Final
<input type="checkbox"/> Affidavits/declaration(s)
<input type="checkbox"/> Extension of Time Request
<input type="checkbox"/> Express Abandonment Request
<input type="checkbox"/> Information Disclosure Statement
<input type="checkbox"/> Certified Copy of Priority Document(s)
<input type="checkbox"/> Response to Missing Parts/Incomplete Application
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input checked="" type="checkbox"/> Substitute Drawing(s)
<input type="checkbox"/> Licensing-related Papers
<input type="checkbox"/> Petition
<input type="checkbox"/> Petition to Convert to a Provisional Application
<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address
<input type="checkbox"/> Terminal Disclaimer
<input type="checkbox"/> Request for Refund
<input type="checkbox"/> CD, Number of CD(s) | <input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
Request for Consideration of Decision Dismissing Petition; Copy of Declaration as filed with Response to Notice of Missing Parts; Sequence Listing (Diskette); Sequence Listing Statement; Preliminary Amendment |
|---|--|---|

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Or Individual Name	Marcella D. Watkins 36,962
Signature	
Date	May 25, 2004

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.	
Typed or Printed Name	Sandra K. Begley
Signature	
Date	May 25, 2004

JOHNSON
CONTROLS

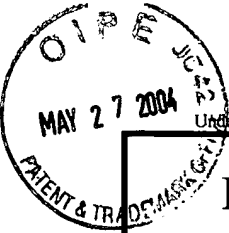
DISK TO STIC
MAY 27 2004
PATENT & TRADEMARK
DATE:

126825.01/2026.00400

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P. O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and selection option 2.

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FEE TRANSMITTAL

For FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT \$ *.00

Complete if Known

Application Number	10/027,015
Filing Date	December 21, 2001
First Named Inventor	Rama Akella
Examiner Name	*
Art Unit	*
Attorney Docket No.	2026-00400

METHOD OF PAYMENT (Check all that apply)

- ☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None
- ☒ Deposit Account:
Deposit Account Number: 03-2769
Deposit Account Name: Conley Rose, P.C.

The Director is authorized to: (check all that apply)
☒ Charge fee(s) indicated below
☒ Charge any additional fee(s) during the pendency of this application
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account
☒ Credit any overpayments

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee	Small Entity Fee	Fee Description	Fee Paid
Code (\$)	Code (\$)		
1001 770	2001 385	Utility filing Fee	\$
1002 340	2002 170	Design filing fee	\$
1003 530	2003 265	Plant filing fee	\$
1004 770	2004 385	Reissue filing fee	\$
1005 160	2005 80	Provisional filing fee	\$

SUBTOTAL (1) \$

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

		Extra Claims	Fee from below	Fee Paid
Total Claims	*	20** = * x	18.00	= \$
Independent Claims	*	3** = * x	86.00	= \$
Multiple Dependent			290.00	= \$ 00.00

Large Entity Fee	Small Entity Fee	Fee Description
Code (\$)	Code (\$)	
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent Claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) \$

** or number previously paid, if greater; For Reissues, see above

SUBMITTED BY

Name (Print/Type)	Marcella D. Watkins	Registration No. (Attorney/Agent)	36,962	Telephone	(713) 238-8000
Signature				Date	May 25, 2004

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee	Small Entity Fee	Fee Description	Fee Paid
Code (\$)	Code (\$)		
1051 130	2051 65	Surcharge - late filing fee or oath	\$
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	\$
1053 130	1053 130	Non-English specification	\$
1812 2,520	1812 2,520	For filing a request for <i>ex parte</i> reexamination	\$
18042 920*	1804 920*	Requesting publication of SIR prior to Examiner action	\$
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	\$
1251 110	2251 55	Extension for reply within first month	\$
1252 420	2252 210	Extension for reply within second month	\$
1253 950	2253 475	Extension for reply within third month	\$
1254 1,480	2254 740	Extension for reply within fourth month	\$
1255 2,010	2255 1,005	Extension for reply within fifth month	\$
1401 330	2401 165	Notice of Appeal	\$
1402 330	2402 165	Filing a brief in support of an appeal	\$
1403 280	2403 140	Request for oral hearing	\$
1451 1,510	1452 1,510	Petition to institute a public use proceeding	\$
1452 110	2452 55	Petition to revive - unavoidable	\$
1453 1,330	2453 665	Petition to revive - unintentional	\$
1501 1,330	2501 665	Utility issue fee (or reissue)	\$
1502 480	2502 240	Design issue fee	\$
1503 640	2503 320	Plant issue fee	\$
1460 130	1460 130	Petitions to the Commissioner	\$
1807 50	1806 50	Processing fee under 37 CFR 1.17(g)	\$
123 50	123 50	Petitions related to provisional applications	\$
1806 180	1806 180	Submission of Information Disclosure Stmt	\$
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	\$
1809 770	2809 385	Filing a submission after final rejection (37 CFR § 1.129(a))	\$
1810 770	2810 385	For each additional invention to be examined (37 CFR § 1.129(b))	\$
1801 770	2801 385	Request for Continued Examination (RCE)	\$
1802 900	1802 900	Request for expedited examination of a design application	\$

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) \$

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P. O. Box 1450, Alexandria, VA 22313-1450. DO NOT SENT FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-0PTO-9199 (1-800-786-9199) and select option 2.



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JUN 02 2004

OFFICE OF PETITIONS

**Response To Notice To File Missing Parts Of Application
Filing Date Granted (PTO-1533)(Large Entity)**

Docket No.
SBI-091

In Re Application Of: Akella, et al.

Serial No.
10/027,015

Filing Date
12/21/2001

Examiner

Group Art Unit
3763

Invention:

COMPOSITIONS AND METHODS FOR PROMOTING MYOCARDIAL AND PERIPHERAL ANGIOGENESIS

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

This is a response to the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533) mailed on
2/14/2002
Date

Enclosed herewith for filing are the following:

- ☒ A copy of the Notice to File Missing Parts of Application - Filing Date Granted (PTO-1533). **(REQUIRED)**
- ☒ An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date.
- ☐ A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date.
- ☐ An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date.
- ☐ A verified English translation of the non-English language application papers as originally filed. It is requested that this translation be used as the copy for examination purposes in the United States Patent and Trademark Office.
- ☐ Other (list):

**Response To Notice To File Missing Parts Of Application
Filing Date Granted (PTO-1533)(LargeEntity)**

Docket No.
SBI-091

In Re Application Of: Akella, et al.

Serial No.
10/027,015

Filing Date
12/21/2001

Examiner

Group Art Unit
3763

Invention:

COMPOSITIONS AND METHODS FOR PROMOTING MYOCARDIAL AND PERIPHERAL ANGIOGENESIS

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

☒ Completion of application fees as calculated below:

☐ Utility application filing fee

☐ Design application filing fee

☐ Total number of independent claims = _____

☐ Total number of claims = _____

☐ Multiple dependent claims

☒ Surcharge for late payment of filing fee and/or late filing of original declaration or oath \$130.00

☐ Petition and fee for filing by other than all the inventors or a person not the inventor

☐ Fee for processing an application filed with a non-English language specification

☐ Fee for processing and retention of application

Total completion of application fees \$130.00

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the above-identified Notice to File Missing Parts of Application. The requested extension is as follows (check time period desired). If an additional time extension is required, please consider this a petition therefor.

☐ One month ☐ Two months ☒ Three months ☐ Four months ☐ Five months

from: 4/15/2002 until: 7/15/2002
Date Date

Total time extension fees \$920.00

Total fees due \$1,050.00

Response To Notice To File Missing Parts Of Application Filing Date Granted (PTO-1533) (Large Entity)	Docket No. SBI-091
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In Re Application Of: Akella, et al.

Serial No. 10/027,015	Filing Date 12/21/2001	Examiner	Group Art Unit 3763
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Invention:

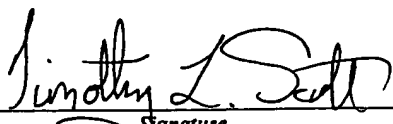
COMPOSITIONS AND METHODS FOR PROMOTING MYOCARDIAL AND PERIPHERAL ANGIOGENESIS

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

Box Missing Parts

The fee of \$1,050.00 is to be paid as follows:

- ☐ A check in the amount of the fee is enclosed.
- ☒ The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account No. 09-0473
A duplicate copy of this sheet is enclosed.
- ☐ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No.
A duplicate copy of this sheet is enclosed.



Signature

Dated: July 2, 2002

Timothy L. Scott
Reg. No. 37,931
Centerpulse USA Inc.
3 East Greenway Plaza, Suite 1600
Houston, Texas 77046

Phone: 713/561-6374
Fax: 713/561-6380

CC:

I certify that this document and fee is being deposited on July 2, 2002 with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.
 <i>Signature of Person Mailing Correspondence</i>
Amy Lewis Typed or Printed Name of Person Mailing Correspondence



TO THE UNITED STATES PATENT AND TRADEMARK OFFICE
Please stamp and return to our office. Thank you.

Mailed: *July 2, 2002*
My File: SBI-091
Applicant: Akella et al
Filing Date: 12/21/2001
Serial No.: 10/027,015
Title: COMPOSITIONS AND METHODS FOR
PROMOTING MYOCARDIAL AND PERIPHERAL
ANGIOGENESIS

Enclosed: Response to Missing Parts Dated February 14, 2002, 2-
Month Extension of Time, Executed Assignment and
Declaration, and Recordation.

BEST AVAILABLE COPY



DECLARATION FOR PATENT APPLICATION

As one of the below named inventor(s), I hereby declare that:

My residence, post office address and citizenship is as stated below next to my name.

I believe the named inventor(s) to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled: COMPOSITIONS AND METHODS FOR PROMOTING MYOCARDIAL AND PERIPHERAL ANGIOGENESIS, (Atty. Docket # SBI-091), the specification of which is attached hereto.

I believe I am a joint inventor of the subject matter claimed.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information, which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, SEC. 1.56(a).

I hereby appoint the following attorney(s) to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected therewith, with power of substitution:

David S. Wise, Reg. No. 30,511
Kenneth S. Barrow, Reg. No. 36,085
Timothy L. Scott, Reg. No. 37,931
Christopher R. Kirby, Reg. No. 39,249
Philip S. Lyren, Reg. No. 40,709

Address all correspondence and telephone calls to:

Timothy L. Scott, Senior Intellectual Property Counsel
CENTERPULSE USA INC.
3 East Greenway Plaza, Suite 1600
Houston, Texas 77046
(713) 561-6374
FAX (713) 561-6380

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued therefrom.

DECLARATION SIGNATURE SHEET

Date

Citizenship: USA

5/31/02

Date

Citizenship: USA

Inventor's Signature

Rama Akella

Residence: 8811 Splitarrow Drive
Austin, Texas 78717



Inventor's Signature

John Ranieri

Residence: 156 Westminster Drive
Atlanta, Georgia 30309



DECLARATION FOR PATENT APPLICATION

As one of the below named inventor(s), I hereby declare that:

My residence, post office address and citizenship is as stated below next to my name.

I believe the named inventor(s) to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled: COMPOSITIONS AND METHODS FOR PROMOTING MYOCARDIAL AND PERIPHERAL ANGIOGENESIS, (Atty. Docket # SBI-091), the specification of which is attached hereto.

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David S. Wise, Reg. No. 30,511
Kenneth S. Barrow, Reg. No. 36,085
Timothy L. Scott, Reg. No. 37,931
Christopher R. Kirby, Reg. No. 39,249
Philip S. Lyren, Reg. No. 40,709

Address all correspondence and telephone calls to:

Timothy L. Scott, Senior Intellectual Property Counsel
CENTERPULSE USA INC.
3 East Greenway Plaza, Suite 1600
Houston, Texas 77046
(713) 561-6374
FAX (713) 561-6380

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued therefrom.

DECLARATION SIGNATURE SHEET

June 26, 2002
Date

Date _____

Citizenship: USA

APRIL 1991
Inventor's Signature

Inventor's Signature

Raina Akella

Rama Akella
Residence: 8811 Splitarrow Drive
Austin, Texas 78717

Date _____

Citizenship: USA

Inventor's Signature

John Ranler

John Rahler
Residence: 156 Westminister Drive
Atlanta, Georgia 30309